

REMARKS

Claims 1-3 and 7 were rejected under the judicially created doctrine of obviousness-type double patenting in view of claims 1-3 and 8-9 of U.S. Patent No. 6,577,102, in view of Adams et al. and Wiley et al. It is believed with the enclosed corrected Terminal Disclaimer requested by the Examiner, the rejection on the grounds of obviousness-type double patenting can be withdrawn. A check covering the fee for the filing of the Terminal Disclaimer is enclosed.

Claims 1-4, 6-7, 9-11 and 13 were rejected under 35 U.S.C. 103(a) on the grounds of obviousness from Benvegar et al. in view of Adams et al. and further in view of Wiley et al. Claims 6, 9 and 13 were previously cancelled. The Examiner acknowledged that Benvegar et al. and Adams et al. do not disclose an indicator to indicate the operative status of the batteries/defibrillator. Wiley et al. discloses an autotest system for automatically self-testing a portable electronic unit, such as a defibrillator, at set times and intervals that are considered to be quiescent periods. At column 6, lines 3-10, Wiley et al. discloses that the autotest routine is initiated at a time when the unit is not likely to be used for its essential functions, such as 4:00 am. As disclosed at column 6, lines 11-20, the clock can be set to provide an alarm output signal at a set time every hour. Claim 1 recites "an indicator to continuously actively indicate an operative status of the first battery unit, the second battery unit, and the external defibrillator." It is respectfully submitted that the autotest system of Wiley et al. clearly does not provide an indicator to continuously actively indicate an operative status of a first battery unit, a second battery

unit, and an external defibrillator, since the autotest routine of Wiley et al. is only performed intermittently at set times and intervals. It is therefore respectfully submitted that Benvegar et al., Adams et al. and Wiley et al. do not teach, disclose or suggest providing a battery pack for an external defibrillator with an indicator to continuously actively indicate an operative status of a first battery unit, a second battery unit, and the external defibrillator, as is claimed, and that the rejection as it pertains to Claims 1-4, 7, and 10-11, on the grounds of obviousness from Benvegar et al. in view of Adams et al. and further in view of Wiley et al. should be withdrawn.

Claims 1-4, 6-7, and 10-11 were rejected under 35 U.S.C. 103(a) on the grounds of obviousness from Benvegar et al. in view of Adams et al. and further in view of Yerkovich. Claim 6 was previously cancelled. The Examiner acknowledged that Benvegar et al. and Adams et al. do not disclose an indicator to indicate the operative status of the batteries/defibrillator. Yerkovich discloses a system for monitoring the capacity of a monitor cell in a battery pack, where the monitor cell has an energy level lower than the rest of the cells in the battery pack, as a way of providing an early warning when the battery pack is nearing depletion. Yerkovich discloses at column 6, lines 10-13 that when the monitor cell is depleted, the microprocessor provides a warning to the operator. In contrast, Claim 1 recites "an indicator to continuously actively indicate an operative status of the first battery unit, the second battery unit, and the external defibrillator." It is respectfully submitted that the warning in Yerkovich is clearly not continuously actively indicated, since the warning is only generated when the amount of charge remaining in the monitor cell goes below a threshold amount. If the battery pack

in Yerkovich becomes depleted and the monitoring system in Yerkovich fails for some reason, then a warning will not be given, and a user will not be alerted to the depleted status of the battery pack. In contrast, since the indicator in the system of the invention continuously actively indicates the operative status, if the first battery, the second battery, or the external defibrillator fail, and the monitoring system fails, the user will be able to assess the failure condition by the cessation of the continuously active indication of the operative status. The indicator system of the invention therefore provides a significant advantage over the system of Yerkovich. It is therefore respectfully submitted that Benvegar et al., Adams et al. and Yerkovich do not teach, disclose or suggest providing a battery pack for an external defibrillator with an indicator to continuously actively indicate an operative status of a first battery unit, a second battery unit, and the external defibrillator, as is claimed, and that the rejection as it pertains to Claims 1-4, 7, and 10-11, on the grounds of obviousness from Benvegar et al. in view of Adams et al. and further in view of Yerkovich should be withdrawn.

Claim 8 was rejected under 35 U.S.C. 103(a) on the grounds of obviousness from Benvegar et al. in view of Adams et al., and further in view of Yerkovich, and further in view of Olson et al. The Examiner acknowledged that Benvegar et al. in view of Adams et al., and further in view of Yerkovich do not disclose an indicator communicating that a medical device has failed a self-test. Olson et al. discloses performing a daily self-test and weekly self-test. It is therefore submitted that Olson et al. clearly does not teach, disclose or suggest an indicator to continuously actively indicate an operative status of a first battery unit, a second battery unit, and a external defibrillator, as is recited in Claim

1. It is therefore respectfully submitted that the rejection of Claim 8 on the grounds of obviousness from Benvegar et al. in view of Adams et al., and further in view of Yerkovich, and further in view of Olson et al. should be withdrawn.

In light of the foregoing amendments and remarks, it is respectfully submitted that the application should now be in condition for allowance, and an early favorable action in this regard is respectfully requested.

Respectfully submitted,

FULWIDER PATTON LEE & UTECHT, LLP

By: 

James W. Paul
Reg. No. 29,967

JWP/rvw

Encls.: Return Postcard
Terminal Disclaimer
Check

Howard Hughes Center
6060 Center Drive, Tenth Floor
Los Angeles, CA 90045
Telephone: (310) 824-5555
Facsimile: (310) 824-9696
Customer No. 24201
87710.1